

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, January 22, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Gerry Krieser, Patte Newman, Cecil Steward and Tommy Taylor (Steve Duvall, Roger Larson, Greg Schwinn and Mary Bills-Strand absent); Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Becky Horner, Duncan Ross, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Vice-Chair Cecil Steward called the meeting to order and requested a motion approving the minutes of the regular meeting held January 8, 2003. Carlson moved to approve the minutes, seconded by Newman and carried 5-0: Carlson, Krieser, Newman, Steward and Taylor voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

### **CONSENT AGENDA**

### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

### **BEFORE PLANNING COMMISSION:**

January 22, 2003

Members present: Carlson, Krieser, Newman, Steward and Taylor; Duvall, Larson, Schwinn and Bills-Strand absent.

The Consent agenda consisted of the following items: **SPECIAL PERMIT NO. 450"O" and FINAL PLAT NO. 02025, ASPEN RIDGE 1<sup>ST</sup> ADDITION.**

Carlson moved to approve the Consent Agenda, seconded by Krieser and carried 5-0: Carlson, Krieser, Newman, Steward and Taylor voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

Note: This is final action on Special Permit No. 450 "O" and the Aspen Ridge 1<sup>st</sup> Addition Final Plat No. 02025, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**SPECIAL PERMIT NO. 2000**  
**FOR AUTHORITY TO SELL ALCOHOL**  
**FOR CONSUMPTION ON THE PREMISES**  
**ON PROPERTY GENERALLY LOCATED**  
**AT 35<sup>TH</sup> STREET AND CORNHUSKER HIGHWAY.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

Staff recommendation: Deferral.

The Clerk noted that the record consists of one letter in opposition.

Brian Will of Planning staff submitted a second letter in opposition.

Proponents

**1. Janet Crosby**, 5014 Valley Forge Road, the applicant, appeared to request a two-week deferral to give her more time to meet with the appropriate people and discuss different options.

There was no testimony in opposition.

Newman moved to defer for two weeks, with continued public hearing and administrative action scheduled for February 5, 2003, seconded by Taylor and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**SPECIAL PERMIT NO. 1997**  
**FOR AN EARLY CHILDHOOD CARE FACILITY**  
**and**  
**ALLEY VACATION NO. 02020**  
**ON PROPERTY GENERALLY LOCATED**  
**AT 37<sup>TH</sup> AND "O" STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

Staff recommendation: Conditional approval of the special permit and a finding of conformance with the Comprehensive Plan on the alley vacation.

Tom Cajka of Planning staff submitted three letters in opposition.

**Proponents**

**1. Steve Clymer of Olsson Associates**, appeared on behalf of the applicant, **Commercial Investment Properties (CIP)**. Clymer noted that the staff is recommending conditional approval and the applicant agrees with all conditions of approval set forth in the staff report.

Newman inquired whether the child care facility can operate without the vacation of the alley.

Clymer stated that currently, the playground area is located across the street from the day care building. They need to have access across the alley to get to the playground. The playground is in an R-4 zoning district. The purpose of the special permit is for approval of the playground area. They cannot take the children across the alley to the playground unless the alley is vacated. Clymer does not believe there is any other solution.

**2. Mike Johnson of Olsson Associates** discussed the alley vacation. The original plat for this area was done back in the 1930's and the alley was not platted at that time. The city took that right-of-way some years later and bought it from the property owners. In meetings with staff, we understood that the playground had to be on the same lot as the child care facility so the only way to join the lots was to vacate the alley. Johnson advised that there is also an administrative final plat being processed through Planning at this time that is contingent upon approval of this special permit and alley vacation. That administrative final plat will join the playground with the day care. This is what the staff has recommended be done.

Clymer also advised that there is an administrative amendment being processed to revise the parking lot layout to allow turnaround. The biggest concern was garbage trucks, so a new design has been proposed to allow the garbage trucks to turn in, back around and leave. The applicant has been told that the garbage trucks usually back down the alley at this time.

Newman inquired whether the applicant has talked with the neighbors. Is this acceptable to the people wanting to use that alley? Clymer indicated that he has not talked with any of the neighbors nor has the applicant, CIP.

Johnson pointed out that they are only requesting vacation of the property that abuts the Home Realty properties. Home Real Estate also owns the lots to the south, which are part of the administrative final plat.

Steward inquired as to whether the information regarding access to the playground area, etc. was available to the applicant when the decision was made to set up the day care center.

Johnson believes the day care has been in existence for quite some time. He believes there may have been a complaint filed. These applications are being requested to bring it into conformance. The day care center was in B-1 zoning; however, the playground portion had been operating in the R-4 Residential area. The day care facility is currently licensed for 56 children.

Opposition

**1. Mike Coatney**, 140 So. 35<sup>th</sup>, submitted four written statements in opposition. He does not believe the business requesting the variance is a good citizen nor a good neighbor. They are presently about to go to court for charges on their day care facility for noncompliance and other things. They knew that they were not in compliance when they set up the facility; they knew they needed the playground. If the neighbors had not brought it to the city's attention, the children would still be crossing a dangerous parking lot. They have plead "not guilty" to the charges. This obviously means that they don't feel they need a special variance. The fact that they are now applying for the variance means they know they need it, which means they should not have plead "not guilty".

As far as the Comprehensive Plan, Coatney believes it is intended to preserve the neighborhoods as they exist. This neighborhood has been here since the 1950's. People use this alley. People walk their dogs through it. Other businesses have parking areas there. Garbage trucks and postal carriers drive through this alley. The applicant does not return our phone calls. They have not been cooperative as neighbors.

**2. Larry Ohs**, 1023 Lincoln Mall, attorney representing an adjoining property owner, Kim Barnes, who has been asked to be part of the administrative final plat, testified in opposition. Ms. Barnes' nail and piercing business is located in the building immediately to the west of the CIP property, zoned B-1. She has owned the business for 9 years and purchased the property from CIP. Ms. Barnes' customers use this alley to come in off "O" Street and to use the parking behind her business daily. Vacating this alley would cause her to lose the access from 37<sup>th</sup> Street. Her customers would have to come in to 35<sup>th</sup> Street. She does not know how she is going to get a sign on "O" Street telling her customers how to enter from two blocks away. CIP has offered to grant an easement across the front of their property so that her customers could come across the property, come between the buildings and park behind. But that would go against the flow of the parking lot. The customers would not know how to get there. The proposed easement would be for Ms. Barnes' customers only—not to be used by the neighbors. His client does not have direct access to "O" Street, which access was relinquished in 1961 and that is when the alley was put in to allow the property owners to have access.

Ohs suggested that the driveway has not been used because they have had the alley access. The driveway will be upgraded and maintained if the alley is vacation.

**3. Sandy Coatney**, 140 S. 35<sup>th</sup>, testified in opposition. She uses the alley daily to walk her dogs. She has walked on "O" Street, but it is stinky from automobile exhaust, unsafe and noisy. Coatney believes this whole issue is little about the alley and mostly about the day care. The playground to the day care backs up about 5' from her back fence. The screaming, crying and noise alone has been a severe problem. The children are never told to be quiet. For two summers, Coatney has talked to the day care owners and asked them to keep a better eye on the kids because they are throwing food and trash in her yard. The children climb up on the back of the fence and tease her dogs. She ended up calling the police, who visited the day care and talked to the children. The children are not being disciplined by the care givers. She has been called names when telling the children not to tease the dogs. She has called the licensing board on other violations. When they are such a bad neighbor, why should they get a special permit at this time? When is ignorance of the law an excuse?

**4. Kathleen Chadwick**, 3435 N Street, testified in opposition. Her property is about one-half block from the alley. She has lived here over 10 years and lived at a prior address 3 blocks away for 20 years. She has an insurance agent on the other side of the street and she goes through the alley to get there. By going around the block and into the parking lot, she does not want to hit a child. If the alley is closed, she believes the kids would continue walking by or through the parking lot to get to the playground. This is unsafe for the children. No matter how well the walking area will be protected, it is far too dangerous to have a day care in the building with a play area across the parking lot. She does not want the alley closed. Those parents utilizing the day care might argue that for convenience sake it is good to have a day care in the neighborhood, but is convenience more important than safety? She would never consider using a day care operating such as this. Closing the alley is not the best solution for everyone involved.

**5. Dan Shull**, 3501 O Street, testified in opposition. The alley is behind his property. If the alley is closed, it will create a lot more traffic going by his property and all the traffic that comes in will have to go out the same way. He has talked to the neighbors that live and adjoin the alley. All of the people he has talked to are in opposition to closing the alley. He uses the alley every day, coming in from both sides. It will create a hardship if he is not allowed to use the alley and will create traffic problems.

**6. Galen Shull**, 3525 O Street, testified in opposition. He is familiar with the trash collection issue. The garbage truck has a difficult time driving through the alley because of the turn at the end of the alley. They do not drive through the alley because of this difficulty. They come in from behind the day care, pick up at the day care, and also leave that way. They used to drive through the alley all the time, but they now have trouble going through and making the corner. They come in and exit on 37<sup>th</sup> Street. It will cause a big traffic problem if the alley is closed.

**Staff questions**

Carlson asked for clarification from staff as to how this day care got started and how it has been operating. Tom Cajka of Planning staff stated that the day care is operating in the office building located in the B-1 zoning district, where a day care is allowed as a conditional use; however, the playground they are using is located behind the residences and in the R-4 Residential zoning district, which requires a special permit. They did not obtain a special permit to use that area as a playground. He understands that Building & Safety had issued a citation that they were not in compliance. The staff of Planning and Public Works has been meeting with the applicants in an attempt to find a solution to allow them to maintain the day care. The solution agreed upon with staff was a petition to vacate the alley and to build a corridor (fenced on both sides) from the office building down to the playground area. The design standards prohibit children from crossing alleys or streets to get to a playground facility and the route to the play area must be fenced or enclosed. A playground is required for a day care center. Public Works had agreed to the vacation of alley as long as they restructured the parking lot on the south side of the alley to allow turnaround movement, and that would be a dedicated easement to the public to allow the cars to come in, turn around and go back to 35<sup>th</sup> Street.

Carlson inquired as to the original use of the parking lot and playground area. Cajka believes that the parking lot has been a special permit in the residential zoning district since about 1970. He did not know when the playground was installed. Before that, it was part of the rear yard of the residence. The house is also owned by this applicant.

Cajka did not know whether the conditional permit was approved. He was told that it was changed from an adult day care to a child day care a few years ago.

**Andy Neil, on behalf of the applicant, CIP**, approached to state that the child day care has been there for some time. There was a previous owner prior to 1995, and there was an oversight as far as the special permit on the playground area, but they have been state certified all this time.

Mel Goddard of Building & Safety stated that Building & Safety was not aware that there was a playground until a complaint was filed about a year ago. Once Building & Safety became aware, the operator of the day care center was notified of the violation and informed that they were to either move or seek remedy on that location.

Newman believes that they still needed an occupancy permit as a conditional use. Newman wondered whether the playground area was shown at that time? Goddard explained that being a conditional use in the B-1 only requires them to meet specific conditions and he agreed that a playground is one of those conditions. Goddard is not aware that anyone asked for an occupancy permit to change from adult day care to child day care.

**Response by the Applicant**

Steve Clymer acknowledged that his history with the project does not go too far back, but he presumed that the day care was put there under a valid building permit. He agreed that to get that permit, it would have been presumed that the playground would have been part of that permit. He is not sure what happened, but there are legal problems with the playground not being connected to the building. In an effort to correct this situation and to allow the day care to maintain and operate and maintain the investment and clients they currently serve, it seemed like it would be good to keep it there. In an effort to do so, there were meetings with staff and staff has recommended approval in order to allow the children to go across the alley. This is not a request to change any of the zoning. A fenced area across the parking lot will be built to maintain the safety of the children. A lot of the traffic that comes down this alley serves the CIP building and the day care, so in a way, by closing the alley we're blocking that day care traffic and the other traffic that visits that building. Therefore, that traffic will not be exiting past the residential lots that back up to this alley.

Mike Johnson of Olsson Associates clarified that the applicant will be purchasing the right-of-way if the alley is vacated. It is not being given to them.

Public hearing was closed.

**SPECIAL PERMIT NO. 1997**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Newman moved to deny, seconded by Taylor.

Newman remembers this topic eight years ago in the Mayor's Neighborhood Roundtable where they were trying to change the number of children from 15 to 20 to require a special permit. It is such a slippery slope, but she does not think this is appropriate. We know what problems there are with access, especially one block away from "O" Street.

Taylor agreed. This will just cause too many problems for the rest of the neighborhood. He thinks there should be a more appropriate remedy for the situation. He also believes that the applicant should have communicated more with the neighbors. He wishes the Commission could have heard from the owner of the day care facility.

Steward believes this represents a rather classic circumstance of the "edge" condition between commercial interests and residential interests, and it is often the case that the uses and the desire are conflicting. He believes that both parties have a higher level of responsibility when they are at the edge of trying to make a community and make it function.

Without having had more cooperation, more collaboration with the neighbors and considering the neighbors' desire to use common public property, it seems to be asking too much to take this out of public use.

Motion to deny carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

Note: This is final action by the Planning Commission unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**ALLEY VACATION NO. 02020**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Newman moved to find the proposed vacation of the alley not in conformance with the Comprehensive Plan and to recommend that it be denied, seconded by Taylor and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Larson, Schwinn and Bills-Strand absent.

**CHANGE OF ZONE NO. 3290**

**FROM AGR AGRICULTURAL RESIDENTIAL  
TO R-1 RESIDENTIAL**

**and**

**PRELIMINARY PLAT NO. 02018,**

**FRONTIER MEADOWS,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 68<sup>TH</sup> STREET AND OLD CHENEY ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

Staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

**Proponents**

**1. Kent Seacrest** appeared on behalf of the owner and developer, **Carl Schmidt**. This project consists of a change of zone from AGR to residential and a preliminary plat to take about four acres and turn it into 3 lots of about 1-acre each in size. Seacrest indicated that the applicant has met with staff and the neighbors during the two-week deferral.



One of the issues was pumping sewage from these three proposed homes up to Old Cheney Road. This is a unique piece of real estate. The Comprehensive Plan shows this property as low density residential with 1- to 5-acre lot size, so this proposal is in conformance with the Comprehensive Plan. This parcel is just one of the little 3.8 acre tract in the middle of the triangle surrounded by acreages. We have discussed pumping sewage up, because the natural sewage will come from the south across Highway 2. This area does not have a sewage plan, yet it is inside the city limits. This applicant is proposing to pump the sewage up to Old Cheney.

This proposal also seeks approval of rural standards for the streets with no curb and gutter. Seacrest recalled that there have been several “retrofits” lately (5-acre tracts being replatted into 1-acre tracts, being in conformance with the Comprehensive Plan and yet not be urbanized). To the east of this development is Hawkswood Estates, which was approved with rural standard streets. Yet in this application, the staff and administration are not recommending approval of the rural standard streets. There was another recent plat called Grandview Heights on No. 14<sup>th</sup> that was recommended for rural standard streets. This (Frontier Meadows) is the start of a neighborhood. The bigger neighborhood surrounding this is called Sheldon Heights which is trying to do what was done at Grandview Heights with rural standards, with city water and sewer. Sheldon Heights is represented by Art Zygielbaum and Stan Maly, who have submitted letters in support of the rural standard streets for Frontier Meadows. Both of these neighbors to the south are begging that Frontier Meadows be allowed to have rural standards because that neighborhood to the south is coming in next and will want rural streets. Seacrest showed a map of Hawkswood Estates which is due east with approved rural standard streets.

Seacrest then stated that his client has given up trying to pump the sewage and is no longer seeking that waiver. His client has also agreed to work with the neighborhood to the south to bring in the rural standards so that everything in the triangle is rural standards. Southfork also has rural standards and it is in this triangle.

Seacrest submitted a motion to amend the conditions of approval, including giving up the request to pump sewage, but requesting deletion of the urban street standards with curb and gutter.

Carlson believes that this is going to be something the Commission will see more and more of as we go along. He appreciates the agreement to the gravity flow. But what is the ultimate form if it is not curb and gutter? Seacrest stated that this triangle has different sets of covenants but yet common covenants requiring 1 acre or larger. With these covenants, there is not the potential for the density that would require the curb and gutter. You don’t need curb and gutter and it changes the appearance from agrarian rural setting to being in the city. This saves the tree masses. There will be fire hydrants and fire protection.

Carlson is sympathy to the aesthetic desire, but what about the walking network? Seacrest stated that the walking networks are planned. They do have a street network and they are putting in sidewalk on one side, plus some of the owners have talked about the wood chip trail network that will be done privately to be able to circulate back and forth.

There was no testimony in opposition.

### Staff questions

Carlson asked staff to respond to the motion to amend. Tom Cajka advised that the staff is in agreement with the change to gravity flow. He deferred to Public Works regarding the street standards. If rural streets are allowed, the property owners will be responsible for maintaining the ditches and culverts.

Dennis Bartels of Public Works had a mixed reaction as far as the rural streets. The reservation is because of Public Works' perception of some maintenance cost problems that occur with rural streets in general. There is talk today about the neighbors to the south coming in with a development similar to this with larger lots; however, nothing has been submitted nor approved. The primary outlets for that development would be through here. We would be relying on faith that the south would follow through with similar size lots. There would be more maintenance costs because of the ditch. For instance, in this type of weather, when you plow snow without the curb, the blade will get into a grass shoulder and cause complaints as far as parking and sprinkler systems. It is a general perception that the maintenance that goes along with rural streets has higher costs. Southfork may not be a real good example because it was a county subdivision that was annexed after-the-fact. We did not force the roads to be reconstructed when it was finally annexed.

Steward indicated that he personally understands the principle and appreciates the need for curb and gutter in a standard urban profile; however, now that we do have a number of these subdivisions and have had some for some time, maybe some study of the cost comparisons might be useful when these applications come forward. This triangle seems to be rather unique in what was developed there, including the size of the lots, how they are trying to redevelop and how they are trying to help the Comprehensive Plan conform to density. Steward asked Bartels whether he would agree that there is some justification within this particular confine for similar profile. Bartels indicated that he agrees with the general principle. But he is not sure everyone sees the rural standard the same way. Engineers might have a different vision of a rural standard than the developer.

With regard to the amendment to Condition #3.2.9 (the water connection), Bartels suggested that the way it is rewritten was not his intent when he asked for it. The people that lived along Old Cheney were going to get a sanitary sewer and asked the city to create an ordinance whereby if they built it, the city would have the authority to ask those that connected to help pay

for the frontage. Public Works determined that if it was good for the private side to get reimbursed, the city should have the same consideration. Bartels' intent was for an analogous payment for the equivalent of half of the 6" water main for the frontage on the existing 16" main in Old Cheney which was paid entirely by the water system as a CIP project. With the likelihood of impact fees, it is kind of caught in the middle. Bartels had mixed reactions to changing this condition and disagreed with the proposed amendment to Condition #3.2.9.

Response by the Applicant

Seacrest was taken back by the water issue. He thinks they could be made to pay three times. There is going to be a cul-de-sac with a water line--why pay for a second water line? As far as the plat, this developer is putting in water so why would they pay to do the water line on Old Cheney, unless this is deemed an off-site improvement? The property is already annexed. It is not fair or legal to ask for off-site water lines. Impact fees have been passed. This developer will be paying for off-sites every time they get a building permit. "So why would we be paying for water more than we need to?"

With regard to the rural road standards, Seacrest agreed that Public Works might have to maintain something, but when you put in curb and gutter and storm sewers, the city has to maintain those as well. The city has maintenance either way. He does not understand the maintenance argument because there is less to maintain with the rural road standards. In addition, Seacrest suggested that it is not appropriate or fair when the last two projects (Grandview Heights and Hawkswood Estates) received this waiver. What is the difference?

Furthermore, Seacrest pointed out that the Comprehensive Plan designates this area as low density residential. The Comprehensive Plan talks about the different urban form needs as well as infrastructure needs. If this is not rural standard streets, then why the low density residential designation in the Comprehensive Plan? Seacrest believes it is an urban form issue and he is disappointed that Planning deferred to Public Works to discuss this issue.

Carlson confirmed that Condition #3.2.9 has this development bringing water down Frontier Road and up Frontier Circle. Seacrest concurred, offering that in the event any of these lots would tap into Old Cheney Road, this development should then tap into that line.

Carlson inquired as to when the area to the south is anticipated to come forward. It looks like it is likely to develop similarly, but if it comes in as 80 homes, what should I do? Seacrest stated that Carlson should then ask staff for a special assessment to add curb and gutter.

The Commission then agreed to allow additional testimony in support.

**Art Zygielbaum**, 6601 Pinecrest in Sheldon Heights, testified in support. The Sheldon Heights neighbors have been meeting and are getting ready to bring in a plat and an update

to their covenants. Zygielbaum also supported Hawkswood Estates. The Sheldon Heights neighbors wish to maintain the rural environment that they have. The area is rural. They have been paying for their own gravel. The residents moved to this area because of the rural environment. The residents are willing to maintain a curbless environment and one with minimal street lighting and yet minimize the cost of maintenance for the city. The Sheldon Heights neighbors have worked with this developer and the Frontier Meadows developer supports what Sheldon Heights wants to do with the Sheldon Heights area, which will be very similar to this proposal.

**Marvin Krout, Director of Planning**, then addressed the Commission. He does not believe there has been the best communication between the Departments and the applicant to date. He believes and agrees that the roads are an urban form issue and Planning does have some responsibility to talk about that. Krout believes that the Planning staff did discuss this with the Director of Public Works and Utilities and Krout was not sure that the Public Works Director had the opportunity to communicate with his staff. However, Krout stated that Allan Abbott did indicate that this was a case where he could go along with the rural standard. There have been situations before the Commission where Public Works did not disagree with a development of this sort with streets of the rural standard. Based on Krout's discussion with Allan Abbott, Krout believes that Public Works Director would agree to the rural standard in this case.

On the issue of off-site improvements, Krout was not aware of this issue until this afternoon. Outside of an annexation agreement, Krout does not believe we should be asking for this off-site water connection fee in this case. Krout suggested that the Planning Commission approve the applicant's proposed amendments.

Public hearing was closed.

**CHANGE OF ZONE NO. 3290****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Carlson moved approval, seconded by Newman and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**PRELIMINARY PLAT NO. 02018****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Carlson moved approval, with conditions as amended by the applicant, seconded by Newman.

Carlson appreciates the discussion on this because he needed clarification and appreciated the Planning Director's thoughts.

Steward noted that with the rural cross-sections, we have other conditions that now apply that would be implemented with this motion, i.e. Condition #3.2.11, with regard to maintenance responsibility for roadways and ditches.

Motion for conditional approval, with amendments as requested by the applicant, carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**STREET AND ALLEY VACATION NO. 02019**

**TO VACATE THE EAST-WEST ALLEY**

**GENERALLY LOCATED AT SOUTH 16<sup>TH</sup> STREET AND SOUTH STREET.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

Staff recommendation: Deferral

Greg Czaplewski of Planning staff submitted the written request from the applicant for an additional deferral until March 19, 2003. The applicant has decided to pursue the option of creating a paving district as opposed to vacating the alley. They would be willing to withdraw, however, until the paving district is approved, Czaplewski suggested that this application be deferred.

Newman moved to defer, with continued public hearing and administrative action scheduled for March 19, 2003, seconded by Carlson and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**ANNEXATION NO. 02004;**

**CHANGE OF ZONE NO. 3362**

**FROM AG AGRICULTURAL TO R-3 RESIDENTIAL;**

**and**

**PRELIMINARY PLAT NO. 02012,**

**BIG THOMPSON CREEK,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 56<sup>TH</sup> STREET AND YANKEE HILL ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

Staff recommendation: Approval of the Annexation, subject to an Annexation Agreement; approval of the Change of Zone; and conditional approval of the Preliminary Plat.

Proponents

**1. Kent Seacrest** appeared on behalf of **Southview, Inc. and Ridge Development Company**. This is a proposal for 156 single family dwelling units and nothing else. It abuts So. 56<sup>th</sup> Street. This happens to be the first project trying to implement the 120' corridor vision, and LES planned their poles under the old 100' standard. Seacrest submitted proposed amendments to the conditions of approval, which he believes are now acceptable to LES, the city and the applicants. The compromise is that the developer of this subdivision is giving an easement for sidewalk and landscaping to get the 120' corridor vision implemented, but because of the poles we might go more than 120' so that we can put the sidewalk on the opposite side so that the pole would be between the street and the sidewalk, if necessary. This provides flexibility to meander the sidewalk.

Seacrest expressed appreciation to the staff and LES for their cooperation in coming to a reasonable consensus so that this developer does not have to pay to relocate the LES transmission line.

Seacrest indicated that the developer has met with the neighborhoods and to the best of his knowledge there are no issues to report.

Steward asked Seacrest to describe, for the Commission's general awareness, the nearest neighborhood shopping or commercial location to this project of new housing as well as the proximity to trails and recreational areas. Seacrest displayed a map. The northern part of this plat is a proposed trail network. Then it goes down and connects into the Beal Slough trail, and then this goes to the west and connects to a trail network there. There will also be a trail on one side or the other of 56<sup>th</sup> Street. As far as shopping, this piece of land is in the section that is comprised primarily of Campbell Nursery, which is proposing a "new urbanism" community center primarily on the southeast corner of Pine Lake Road and So. 56<sup>th</sup>. One-half mile to the north will be a neighborhood community center, into which the trail network connects. That neighborhood center has been designated in the Comprehensive Plan. Otherwise, this development will also be located between two large regional centers at 27<sup>th</sup> and Pine Lake Road and 84<sup>th</sup> and Hwy 2. There is also a designation close to Rokeby and 40<sup>th</sup> Street that is a community center in the Comprehensive Plan.

Steward inquired as to the developer's intent for the characteristics of Outlot A. Seacrest indicated that it is a dry detention facility—it will be a green open space that will get wet and drain within 12 hours. Right now the vision is for LPS to have school site on the section but they are looking at moving that school site to the eastern edge of this development, and again, on the trail network.

There was no testimony in opposition.

**Staff questions**

Brian Will of Planning staff agreed with the motion to amend submitted by Seacrest, including the blue ink changes which were actually recommended by the staff.

Public hearing was closed.

**ANNEXATION NO. 02004**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Newman moved approval, seconded by Krieser and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**CHANGE OF ZONE NO. 3362**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Newman moved approval, seconded by Krieser and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**PRELIMINARY PLAT NO. 02012**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Newman moved conditional approval, with the amendments proposed by the applicant, seconded by Krieser and carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'yes'; Duvall, Larson, Schwinn and Bills-Strand absent.

**CHANGE OF ZONE NO. 3389**

**FROM B-1 LOCAL BUSINESS TO**

**H-2 HIGHWAY BUSINESS,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTHWOOD DRIVE AND HIGHWAY 2.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

**Staff recommendation:** Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant and **withdrew** the change of zone request.

**COUNTY CHANGE OF ZONE NO. 210**

**FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL**

**ON PROPERTY GENERALLY LOCATED**

**AT N.W. 126<sup>TH</sup> STREET AND WEST "O" STREET.**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 22, 2003

Members present: Krieser, Taylor, Carlson, Newman and Steward; Duvall, Larson, Schwinn and Bills-Strand absent.

The Clerk noted that the Commission had received one additional letter in opposition; petitions in opposition bearing 62 signatures; and a memorandum from the Building & Safety Department since the close of the public hearing.

Taylor moved to deny, seconded by Krieser.

There was no discussion.

Motion to deny carried 5-0: Krieser, Taylor, Carlson, Newman and Steward voting 'no'; Duvall, Larson, Schwinn and Bills-Strand absent.

There being no further business, the meeting was adjourned at 2:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on February 5, 2003.